U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40138721

Date: NOV. 18, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a family nurse practitioner, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S.

Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Petitioner is a family nurse practitioner whose proposed endeavor is to open and operate a primary care medical services company in the United States. SCOPS determined that the Petitioner established his eligibility for the EB-2 classification as a member of the professions holding an advanced degree.[2] However, SCOPS further concluded that the Petitioner did not establish eligibility for a national interest waiver. On appeal, the Petitioner contends that SCOPS erred in this finding. We conclude the record does not establish the Petitioner's proposed endeavor is of national importance and therefore he is not eligible for a national interest waiver as a matter of discretion.

A. Substantial Merit

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Petitioner is a family nurse practitioner whose proposed endeavor is to establish a primary care medical services company. He proposes to provide medical care for patients using telemedicine technology and will later expand to in-person care. His vision is "to eliminate barriers to healthcare access by offering reliable, affordable, telemedicine services to communities in need" and his mission is to "improve population health by providing timely, equitable, and culturally competent care through virtual and home-based healthcare delivery models." The record includes articles about the importance of telemedicine, U.S. government initiatives to strengthen the primary care field, and the proclamation establishing nurse practitioner week by the governor of the state of Florida. We conclude that the Petitioner's proposed endeavor has substantial merit.

B. National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The Petitioner contends that SCOPS ignored evidence that establishes the scope and national importance of his proposed endeavor. On appeal he highlights an article about the Center for Medicare and Medicaid Services' (CMS) new fee schedule to screen for health disparities using telehealth services. The Petitioner contends that this fee schedule is evidence that health

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

[2] The Petitioner submitted evidence of a master's degree in nursing from United States [redacted] SCOPS concluded that the Beneficiary qualifies as a member of the professions holding an advanced degree and we agree.

disparity is an important issue in the healthcare industry. Further, the Petitioner highlights a proclamation from the governor of the state of Florida, establishing "Nurse Practitioner Week in Florida." The Petitioner asserts that SCOPS undervalued the governor's proclamation, and states that it confirms that nurse practitioners have substantial merit and national importance. While we acknowledge the importance of addressing health disparities and the work that nurse practitioners do, this article and proclamation do not further establish the proposed endeavor's national importance. The relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner improperly relies upon the importance of the industry and the profession as sufficient to establish the national importance of his proposed endeavor. Without sufficient documentary evidence of the specific proposed endeavor's broader impact in the industry, the Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

Dhanasar states that an undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances. *Id.* The Petitioner contends that his proposed endeavor is noteworthy because it will reduce health disparities by using telemedicine technology. He states that telemedicine technology provides a groundbreaking medical solution that reduces financial barriers and transportation challenges. In *Dhanasar*, we determined the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here too, the record does not show how the Petitioner's proposed endeavor to open and operate a primary care medical company will have an impact that extends beyond his patients to the broader healthcare field. Further, although the Petitioner will be using telemedicine technology in his work, the record does not establish he will impact the healthcare or telemedicine fields in a broader way such as creating "certain improved manufacturing processes or medical advances." *Id.* at 889. Therefore, although there is merit to his work, the Petitioner has not provided sufficient documentary evidence to establish that his work will extend beyond his patients to impact the healthcare or telemedicine industry more broadly. Without sufficient documentary evidence of the broader impact, the Petitioner's proposed endeavor does not meet the national importance element of the first prong of the *Dhanasar* framework.

The Petitioner contends that his proposed endeavor will have a positive economic impact by reducing healthcare expenses and that physicians and nurse practitioners help the federal government save billions of dollars "by preventing unnecessary medical diagnostic tests, treatments, and referrals." *Dhanasar* states that an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance. *Id.* at 890. However, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake offers substantial positive economic effects for our nation. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. Here, the Petitioner's statements are not supported by evidence to establish his proposed endeavor will have a positive economic impact. In addition, his statements point to the economic impact of physicians and nurse practitioners in general and not the economic impact of his specific proposed endeavor. Likewise, in the business plan, the Petitioner contends that his proposed endeavor will contribute to economic development as "[h]ealthcare contributes over 10% of Florida's GDP." This statistic does not establish that his specific

proposed endeavor will have substantial positive economic effects as it speaks about healthcare in general and not the Petitioner's proposed endeavor.

In addition, the Petitioner states in his response to the request for evidence that the "main advantage of this project is the generation of thousands of healthcare positions for under-supported regions." However, the business plan contradicts this number and states that the Petitioner will initially employ 3 staff members, and that when he expands his proposed endeavor to include in-person services, he will hire approximately 8 to 10 people. Here, the record does not establish his company's future staffing levels and business activity stands to provide substantial economic effects. Specifically, the record does not demonstrate that the direct creation of 11 to 13 additional jobs in this sector will have a substantial economic benefit commensurate with the national importance element of the first prong of the *Dhanasar* framework. Furthermore, the record does not establish that the Petitioner will be creating jobs in areas that are economically depressed. The record establishes that the company will be located in Florida and serve patients in "Central and South Florida," but the record does not identify any specific location in order for us to determine if there will be substantial positive economic effects, particularly in an economically depressed area. *Matter of Dhanasar*, 26 I&N Dec. at 890. Therefore, we conclude that the record does not establish the staffing levels, business activity, or location of the company stand to provide the economic impact *Dhanasar* requires.

We further note that on appeal, the Petitioner states that SCOPS ignored his potential as he is attempting to further his education by applying for a fellowship and will therefore be involved in research. The Petitioner states that he is applying for a fellowship in "infectious diseases and primary care to extend [his] abilities" but the record does not establish what specific research he will be doing within these fields and what impact it will have. While furthering his education could expand his personal knowledge, the record does not establish it will expand the impact of the Petitioner's proposed endeavor for it to rise to the level of national importance. Therefore, it does not further his claim of national importance. While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings

may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.